S.B. Civil Writ Petition No.1500/06
Dr. Raj Kumar Yadav Vs. RPSC & Ors.

Date of Order : 06/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. S.S. Hora, for petitioner

The petitioner is holding the post of Lecturer in the Department of Cardiovascular & Thoracic Surgery for last 8 years on ad-hoc basis and thrice he faced selection, but was not found suitable by the Commission.

Counsel contends that in pursuant to present advertisement Ann.1, the Commission is making selection on the basis of interview and his record of service, which he has rendered in the department will not be taken note of and in the absence of which, it will certainly affect his right of fair consideration. In support of his contention, counsel placed reliance upon the judgment of apex court in **Janki Prasad Vs. State of J. & K. [AIR 1973 SC 930]** and judgment of Division Bench in **D.B. Civil Special Appeal [Writ] No.492/94, decided on 8th May, 1995**. In my opinion, the submission made by the counsel is without any substance.

Undisputedly, the post in question is included in the schedule appended to the Rajasthan Medical

[Collegiate Branch] Service Rules, 1962 and is a selection post to be filled on the basis of interview alone. In my opinion, it is for the Committee constituted by the Commission to adopt its own procedure in adjudging suitability and the committee cannot be directed to consider service record of the applicant concerned.

Judgment reported in **Janki Prasad Vs. State of J. & K. [supra],** on which the counsel has placed reliance, is of no assistance to him for the reason that it was a case where selection was to be made by interview on a promotional post and certainly when promotion is to be made consideration of service record of feeder post is imperative. As regards second judgment of Division Bench in **D.B. Civil Special Appeal [Writ] No.492/94 [supra]** was the case where the basic question for consideration was that if the Commission adopts a mode of holding screening test for short-listing of the applicants, can such applicants who have rendered more than 3 years of service can claim exemption from the screening test or not, it will also be of no assistance to him.

Consequently, I find no force in the writ petition and the same is, accordingly, dismissed.

[Ajay Rastogi],J.

FRB